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4.3 e) The Software Product delivered or provided by Leica Microsystems shall be free from third party rights, which prevent the use in accordance with the EULA.

If a third party is entitled to such rights and pursues these, then Leica Microsystem shall do everything in its power, in order to defend the Software Product at its own expense against the third party's rights claimed. You shall inform Leica Microsystems in writing without delay of the claiming of such rights by a third party and shall give Leica Microsystems all powers of attorney and authorisations, which are necessary in order to defend the Software Product against the third party's rights claimed.

To the extent that there are defects in title, Leica Microsystems is (a) entitled at its option to either (i) take legitimate measures to remove the third party's rights, which impair the contractual use of the Software Product, or (ii) remedy the enforcement of such claims, or (iii) change or replace the Software Product in such a manner, that it no longer infringes the rights of the third party, provided and to the extent that this does not substantially impair the warranty functionality of the Software Product, and (b) under an obligation to reimburse you for your necessary refundable costs incurred in the enforcement of legal claims.

5. Limitation of Liability

5.1 Under no circumstances and under no legal theory, tort, contract, or otherwise, shall Leica Microsystems or its suppliers or resellers be liable to you or any other person for any indirect, special, incidental, or consequential damages of any character including, without limitation, damages for loss of profits, data, goodwill, work stoppage, computer failure or malfunction, or any and all other commercial damages or losses, even if Leica Microsystems shall have been advised of the possibility of such damages.

Neither Leica Microsystems nor its licensors shall be liable for any damages resulting from or in connection with the use of Software Product in any application where the failure or inaccuracy of the Software Product might result in death or personal injury. You agree to indemnify and hold harmless Leica Microsystems and all other Leica Microsystems Group Companies from any claims, loss, cost, damage, expense, or liability, including attorneys' fees, arising out of or in connection with such use.

5.2 Some states do not allow the exclusion or limitation of liability, so the above exclusion may not apply to you. You may also have other rights which vary from state to state. In this case, Section 5.1 does only apply to the extent that is allowed under applicable law.

5.3 If your residence or registered office is located within the territory of Germany, the following limitation of liability shall apply to you:

5.3 a) Leica Microsystems liability for damages caused by slight negligence, irrespective of its legal ground, shall be limited as follows:

- 5.3 a) (i) Leica Microsystems shall be liable up to the amount of the foreseeable damages typical for this type of contract due to a breach of material contractual obligations.
- 5.3 a) (ii) Leica Microsystems shall not be liable due to a slightly negligent breach of any other duty of care applicable.

5.3 b) The aforesaid limitations of liability shall not apply to any mandatory statutory liability, in particular to liability under the German Product Liability Act (Produkthaftungsgesetz) and the liability for culpably caused injuries of life, body or health. In addition, such limitations of liability shall not apply if and to the extent Leica Microsystems has assumed a specific guarantee.

5.3 c) Sections 5.3 a) and b) shall apply accordingly to the liability of Leica Microsystems for futile expenses.

5.3 d) You shall be obliged t take adequate measures to avert and reduce damages, e.g. you shall be obliged to regularly backup your data. You shall, in particular prior to any installation, take a complete data security backup of all system and application data.

5.3 e) Leica Microsystems shall be liable for loss of data only up to the amount of typical recovery costs which would have arisen had accurate and regular data backup measures been taken.

6.   Data Protection and Security

With regard to the processing of any personal data in connection with the use of the Software Product, please refer to our privacy policy, which is provided at https://www.leica-microsystems.com/company/privacy-policy ("Privacy Policy").

Our safety and security policy to run our Software in the combination with a Leica Microscope is related to the technical specification IEC TS 62443-1-1 (Industrial communication networks – Network and system security – Part 1-1: Terminology, concepts and models). Regarding this specification we defined a local physical security zone as area under protection. This technical specification zone is a logical grouping of physical, informational and application assets sharing common security requirements. The security goal is to avoid local system attacks by hardware manipulation or mistreating of data by copying data from or into the system. To cover the requirements of physical access restrictions the following points need to be fulfilled and defined as physical access required to allow people to work within this zone.

6.1   Human operators defined to be trusted people.

6.2 Human operators need to be trained and informed how to treat the data which will be generated on the system.

6.3 Access to the system against unauthorized access by locks on doors or other physical means protect need to be available.

6.4 Physical boundaries commensurate with the level of security1 desired and aligned with other asset security plans need to be available. For example, in a typical manufacturing plant authorized people are allowed into the plant by an authorizing agent (security guard or ID), and unauthorized people are restricted from entering by the same authorizing agent and by fences.

6.5 Information needs to flow into, out of and within the zone carried by a physical data carried (USB Stick, portable hard disk or miscellaneous data carrier) need to be checked before used on the system.

6.6 Defined assets connected to the system within the zone need to be verified by Leica Microsystems.

6.7 Defined assets connected to the system within the zone need to use in the defined operation mode and the desired connectivity to the system. Bypasses from 3rd Party components to the network could lead to security lags.

The operator of the system verifies, that the environment fulfils the safety requirements to run the system regarding our safety and security policy

In particular, when you use the Software Product, Leica Microsystems also may collect certain usage and device information automatically described in the following Section 7. Diagnostic and Support

7.   Diagnostic and Support

Leica Microsystems uses your personal data to provide you the services under the Agreement or which you request, to communicate with you, and to improve your experience using the Software Product. This may include Leica Microsystems accessing your Computer or system for the purposes of providing remote assistance.

In addition, Leica Microsystems uses the following services of:

7.1 "RemoteAnalytics" (https://www.revulytics.com/) to analyse your use of the Software Product. For this purpose, "RemoteAnalytics" records and stores the Internet Protocol ("IP") address of your computer or other electronic device when you use the Software Product. An IP address identifies the electronic device you employ to use the Software Product, which allows Leica Microsystems or its service providers to maintain communication with your Computer or system to provide services under the Agreement. The Software Product implements a call-home system which collects and processes data, which may include personal data or certain

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[1] Security level (SL) need to be defined regarding the treated data.

statistical data connected to your use of the Software Product. This data may be used by Leica Microsystems or "RemoteAnalytics" and their suppliers and affiliated companies. Some of the data may be stored or processed in jurisdictions other than Germany whose data protection laws may differ; however, Leica Microsystems will take the security measures described in the Privacy Policy in an effort to keep your information secure.

7.2 "RemoteCare" (https://www.ptc.com/) "axeda machine cloud" provides the confidence of permanent monitoring of your system. The "RemoteCare" support constantly checks the functionality of your soft- and hardware so potential failures or problems can be rectified before data collection is interrupted or system performance is reduced. Therefore, technical machine data as also software log files will be transferred to an ptc hosted server located in Germany.

7.3 "FlexNet Connect Client" (https://www.flexera.com/products/software-monetization/flexnet-connect.html) provide the system with information's about existing or upcoming software updates. Therefore, machine location data and information's about the installed version will be transferred to an flexera hosted server.

8.   Export

Software is subject to regulation by local laws, which prohibit export or diversion of certain products, information about the products, and direct products thereto to certain countries and certain persons. You agree that you will not export in any manner any Software Product or an direct product of the Software Product, without first obtaining all necessary approval from appropriate local government agencies.

9.   Termination

Without prejudice to any other rights, Leica Microsystems may terminate this Agreement if you fail to comply with the terms and conditions of this Agreement and, if able to be cured, such breach is not cured within ten (10) working days after Leica Microsystems informed you about the breach. In this case, you must, at the choice of Leica Microsystems, either destroy all copies of the Software Product and all of its component parts and Documentation, and confirm such destruction in writing to Leica Microsystems, or return it to Leica Microsystems.

10.   Confidentiality

The Parties shall treat all confidential information received from the other party in connection with this EULA strictly confidential and shall only use such information for purposes of this EULA. Both Parties shall protect confidential information from unauthorized access and apply the same due care and diligence as they do with their own confidential information. A Party to this EULA may not, without prior written consent from the other Party, disclose confidential information to a third party, unless; (i) required by compelling applicable law or by judicial decree or order from any regulatory supervisory authority (and the receiving Party shall have

without undue delay informed the other Party in writing of such an obligation) or, (ii) the confidential information is made accessible to advisors of the receiving Party in connection with the interpretation or execution of the EULA or any subsequent disputes and the advisors have bound themselves prior in writing to confidentiality or are subject to professional non-disclosure obligations.

11.   Miscellaneous

11.1 This EULA shall be governed by and construed under the laws of Germany excluding its conflict of law rules. The Parties agree that the United Nation Convention on Contracts for the International Sale of Goods is specifically excluded.

11.2 If any provision of this EULA is held to be void, invalid, unenforceable or illegal by a court of competent jurisdiction, such provision shall be severed from this EULA and the remaining provisions shall remain in full force and effect.

11.3 This EULA contains the entire understanding between the Parties relating to its subject matter and supersedes all prior or contemporaneous agreements, including, but not limited to, any purchase order terms and conditions, except valid license agreements related to the subject matter of this EULA which are physically signed by you and an authorised agent of Leica Microsystems.

11.4 This EULA may only be modified by a physically signed writing between you and an authorised agent of Leica Microsystems. Waiver of terms or excuse of breach must be in writing and shall not constitute subsequent consent, waiver or excuse.